

March 27, 2003

CPCS Opposes Proposals to Reinstate The Death Penalty in Massachusetts

On behalf of the Committee for Public Counsel Services, I wish to record with this Committee our continuing and unrelenting opposition to any proposal which would return capital punishment to the Commonwealth of Massachusetts, which has been execution-free for well over half a century.

CPCS opposes the death penalty for many reasons: it is **unnecessary**, because it does not deter murder more effectively than a life sentence with no possibility of parole; it carries an unacceptable risk that **innocent people will be sentenced to death**, just as innocent persons have been sentenced recently in Massachusetts to very long terms of incarceration after their wrongful convictions; it is imposed in a **racially discriminatory** manner, because the deaths of white victims are avenged by the penalty of death much more frequently than the deaths of minority victims; and it is **the enemy of effective law enforcement**, because it diverts scarce public funds from effective public safety measures, to a purely symbolic and ineffective one. Other speakers have or will address these reasons in more detail today. I will refer you to my previous statements to this Committee dated March 22, 1999 and February 20, 2001 for elaboration.

I have been asked to address the issue of **cost**. In my written presentation to this Committee in 1999 I concluded, based on a comprehensive analysis of all murder cases which I assigned as CPCS chief counsel during 1998, that the additional annual cost of enacting the death penalty proposals then under debate would be **\$47,776,385 per year** – a figure that exceeded the entire cost of providing CPCS assigned counsel criminal defense representation at that time, and continues to exceed the entire cost of providing such criminal defense representation (\$45,583,949, in 208,779 cases).

As CPCS chief counsel, I have been immersed in justifying the current level of counsel expenditures, which are provided at rock-bottom hourly rates and salary levels by a diminishing core of 2,500 private attorneys and barely more than 100 public defenders; and in sounding the warning that our assigned counsel system is nearing collapse due to lack of adequate funding. Last week, the National Legal Aid and Defender Association's "Gideon Reviewed: The State of the Nation 40 Years Later" reported bluntly that "Massachusetts now holds the distinction of offering the lowest compensation rates to assigned counsel attorneys in the country." Given this status, and the dire fiscal situation from which the Commonwealth is struggling to extricate itself, it is barely conceivable that death penalty proponents can seriously advocate enactment of a proposal which would immediately throw our counsel system into fiscal and constitutional crisis.

Reinstating the death penalty in Massachusetts has always been a bad idea, and never more so than right now, in the year 2003. The pending proposals warrant your prompt and decisive rejection.